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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/111,911	07/08/1998	WILLIAM S. M. WOLD	16153-5587	6287

21888 7590 09/13/2002

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EXAMINER

SHUKLA, RAM R

ART UNIT	PAPER NUMBER
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1632

DATE MAILED: 09/13/2002

24

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Advisory Action**

Application No.

09/111,911

Applicant(s)

WOLD, WILLIAM S. M.

Examiner

Ram R. Shukla

Art Unit

1632

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 8-21-02 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 1, 4 and 23-25.

Claim(s) objected to: 26.

Claim(s) rejected: 7, 10 and 13.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

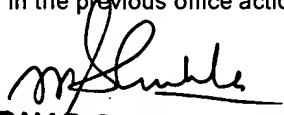
8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

**RAM R. SHUKLA, PH.D**  
**PATENT EXAMINER**

Ram R. Shukla  
Examiner  
Art Unit: 1632

Continuation of 2. NOTE: It is noted that only one claim is cancelled, while two claims have been added. Further, newly presented claim 28 recites a particular cell type, A549 cell, that would require new considerations of search and analysis. Amendments to claims 10 and 26 do not reduce the issues for appeal because they do not address the grounds of enablement rejection set forth in the previous office action. It is noted that the amendment to claim 10 only rewords the claimed invention and still reads on ex vivo therapy and as noted in the previous office actions (10-15-01, 1-2-02 and 6-17-02), claimed invention is only enabled for an in vitro method of inhibiting apoptosis, not for transplantation or therapy. Therefore, amendments do not reduce the issues for appeal. Additionally, in view of the amendment to claim 10 and 26, the issues for analysis of claim 26 will also change.

Continuation of 5. does NOT place the application in condition for allowance because: Applicants' arguments have been fully considered, however, applicants' arguments are not persuasive and the rejection of claims 7, 10 and 13 is maintained for reasons of record set forth in the previous office actions of 10-15-01, 1-2-02 and 6-17-02. It is noted that applicants have only listed parts of the specification that they argue supports the claimed invention. Applicants have not provided any new arguments or evidence to support their assertion that the claimed invention was enabled or to address the issues of enablements raised in the previous office actions of 10-15-01, 1-2-02 and 6-17-02.

  
**RAM R. SHUKLA, PH.D**  
**PATENT EXAMINER**

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